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ABSTRACT

The Broward County, Florida, School District student suspension policies, rules, and procedures were found to be deficient by standards based on the Wood v. Strickland and Goss v. Lopez decisions of the Supreme Court and the guidelines set down by the Office of Civil Rights. Subsequent to the identification of the deficiencies, an accounting system on suspension of students was developed and implemented. The system provided data relative to the categorical definition of offenses; duration of suspension; race, ethnic origin, and sex of the person suspended; and the school in which the student was enrolled. Notices of suspension to parents and guardians were developed that were in compliance with the federal rulings. An inservice education program was developed and implemented to instruct all groups of school personnel. A suspension handbook was also developed. (Author/IRT)

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IMPLEMENTING UNIFORM SUSPENSION PROCEDURES IN THE BROWARD COUNTY, FLORIDA SCHOOL SYSTEM

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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ABSTRACT

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TITLE Implementing Uniform Suspension Procedures in the Broward County, Florida School District

DESCRIPTORS Civil Rights; Constitutional Law; Court Litigations; Courts, Discipline; Due Process; Equal Protection Laws; School Administration; School Law; School Policy; State Powers; State Programs; Student Rights; Suspension

ABSTRACT

Deficiencies in the Broward County, Florida School District student suspension policies, rules, and procedures were identified. The deficiencies were based on the Goss versus Lopez decision and the Wood versus Strickland decision of the United States Supreme Court. Guidelines were handed down by the Office of Civil Rights of The Department of Health, Education, and Welfare, for implementation in all school districts in the land.

Subsequent to the identification of the deficiencies and based on the law and federal guidelines, an accounting system on suspension of students was developed and implemented. The system provided data relative to the categorical definition of offenses, duration of suspension, race and ethnic origin, sex, and school in which student was enrolled.

Notices of Suspension to parents and guardians were developed. Consistent with the Goss versus Lopez decision, the notification of suspension letters provided for "suspensions with prior notice" or "suspensions without prior notice".

An inservice education program including a pre- and post-test evaluation was developed and implemented for the purpose of acquiring needs assessment data as well as instructing all groups of school personnel. A suspension handbook was developed which contained the following elements:

Federal Involvement in School Suspension Procedures
State Law
School Board Policies, Rules and Procedures for Implementation Including Forms
Needs Assessment Data

The elements of the practicum were initiated and implemented during the 1975-76 school year and institutionalized as a result of the June 1, 1976 memorandum from The Department of Health, Education, and Welfare.

TABLE OF CONTENTS

	PAGE
ABSTRACT	
LIST OF ILLUSTRATIONS	v
PREFACE	vi
CHAPTER 1, SCHOOL DISCIPLINARY PRACTICES AND RECENT SUPREME COURT DECISIONS	1
CHAPTER 2, STAFF INSTRUCTION ON STUDENT SUSPENSIONS	5
2.1 Need for Testing	5
2.2 Objectives	6
2.3 Approach to the Solution	6
2.4 Activities	6
2.4.1 Developing the Test	6
2.4.2 Redevelopment of the Test	8
2.4.3 Pilot Study of Test	10
2.4.4 Pre- and Post-Tests in the Inservice Telecast	10
2.5 Outcomes	11
2.5.1 Results of the Pilot Study	11
2.5.2 Testing of Personnel	11
2.6 Institutionalization	12
CHAPTER 3, INSERVICE PROGRAM	15
3.1 Need for Inservice Program	15
3.2 Objectives	17
3.3 Approach to the Solution	17
3.4 Activities	18

3.4.1 Inservice Program for Instructional Personnel 18
3.4.2 Inservice Program for Administrative Trainees 21
3.4.3 Inservice Program for Intern Teachers 22
3.4.4 Student Suspension Handbook 22
3.5 Outcomes 23
3.6 Institutionalization 24
CHAPTER 4, NOTICE OF SUSPENSION 25
4.1 Need for Notice of Suspension 25
4.2 Objectives 25
4.3 Approach to the Solution 26
4.4 Activities 26
4.4.1 Notice of Suspension with Prior Hearing 29
4.4.2 Notice of Suspension without Prior Hearing 29
4.5 Outcomes 30
4.5.1 Criteria 30
4.5.2 School Board Policy and Notices of Suspension 30
4.5.3 School Board Policy #5006 30
4.6 Institutionalization 31
CHAPTER 5, UNIFORM REPORTING SYSTEM OF SUSPENDED STUDENTS 32
5.1 The Need for a Uniform Suspension Reporting System 32

5.2 Objectives 33
5.3 Approach to the Solution 33
5.4 Activities 33
5.4.1 Approval to Conduct Practicum 33
5.4.2 District Suspension Reporting Data 34
5.4.3 District Computer Center 34
5.4.4 Scanner Sheet of Suspension of Students 38
5.4.5 Uniform Reporting System 38
5.4.6 Area and School Implementation of Uniform Suspension Reporting System 41
5.5 Outcomes 41
5.5.1 Evaluative Criteria 41
5.5.2 Pilot Study of Two Administrative Areas 42
5.5.3 Side-Effects 43
5.6 Institutionalization 45
5.7 Recommendations 45
CHAPTER 6, SUMMARY 46
GLOSSARY 49
BIBLIOGRAPHY 50
APPENDICES 51
A: Memorandums from The Office of Civil Rights, The Department of Health, Education and Welfare 52
B: School Unfair in Discipline, U.S. Asserts 60
C: Education U.S.A., Vol. 18, No. 4 62

D: Student Suspension Pre-test/Post-Test 65

E: Superintendent's Authorization for Telecast 69

F: Schedule for Viewing Telecast 71

G: Superintendent's Approval to Conduct the Practicum 74

H: Classroom Discipline Knowledge Questionaire 76

I: Correspondence with Principals 78

J: Script of Telecast 82

K: Superintendent's Approval for Transmission of Student Suspension Telecast 92

L: Orientation Program for Intern Teachers 94

M: Notices of Suspension S-1 and S-2 96

N: Revised Notices of Suspension S-1 and S-2 99

O: Requests for Handbook Entitled Student Suspensions 102

LIST OF ILLUSTRATIONS

		PAGE
1.	Frequency Distribution of Correct Responses Before and After Telecast	13
2.	Total Number of Suspensions Reported by Schools Between August and October, 1975	35
3.	Attendance I.B.M. Card	37
4.	Suspension of Students' Scanner Sheet	39
5.	Flow Chart, Suspension Reporting System	40
6.	Broward County Report of Suspension of Black Students, 1975-1976	43
7.	Broward County Report of Suspension of Students for March, 1976, in One High School	44

PREFACE

The practicum effort presented in the context of this report is the work of Joel Keiter, Marwin Kwint, Nelson Moore, and Clarence Noe. Though the details of the action included team participation by the writers, specific responsibilities can be identified as presented in the various chapters of the report.

Chapter two was completed by Clarence Noe, who had the following responsibilities:

1. The development of the pre- and post-tests, the instructions for testing, the reproduction of the test, and the distribution of the test.
2. The collection, grading, statistical analysis, and report of the findings.

Chapter three was completed by Joel Keiter, who had the following responsibilities:

1. Arranged the training sessions in the public schools, with the Administrative Trainees and intern teachers.
2. Produced and directed the inservice telecast on student suspensions.
3. Edited and assisted in producing the handbook entitled Student Suspensions.

Chapter four was completed by Marwin Kwint, who had the following responsibilities:

1. Researched the literature on due process.

2. Conceptualized operational approaches to a solution in lieu of State and School Board policies.

3. Drafted the suspension letter containing prior notice and the suspension letter without notice.

Chapter five was completed by Nelson Moore, who had the following responsibilities:

1. Developed a uniform system for reporting student suspensions within the Broward County district.

2. Coordinated the efforts of the writers in the development of the handbook on student suspensions.

3. Implemented the procedure for distributing the handbook to all schools, to all centers in the district, and to other districts requesting the handbook.

The completion of this practicum would not have been possible without the assistance of Mr. James E. Maurer, Superintendent, The School Board of Broward County, Florida.

Special appreciation goes to the following individuals who gave encouragement, assistance and advice:

Mrs. Marian Bell, Coordinator, The Instructional Television Center
Mr. Frank Campana, Principal, Hollywood Hills High School
Mr. Bruce Collins, Senior Programmer, Computer Center
Mr. Warren G. Cox, Director, Pupil Accounting
Mrs. Virginia Davis, Secretary
Dr. William C. Drainer, Program Superintendent for Instructional Services
Mr. Edgar Elder, Director of Middle School Education
Mr. Hal P. Jackson, South Area Superintendent
Mrs. Jeanelle Keiter, Inservice Coordinator, The Instructional Television Center
Dr. Bert Kleiman, Miami/Fort Lauderdale Cluster Coordinator, Nova University

Mrs. Kay LaBelle, Director of Inservice Education
Dr. Hilton Lewis, Principal, Stranahan High School
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Dr. William Meredith, Jr., Coordinator of Research Department
Mr. Robert Miller, Producer/Director, The Instructional Television Center
Mr. Harold Mosser, Director of High School Education
Dr. Linda Murray, Special Assistant to the Superintendent
Mrs. Louise Norberg, Composition Specialist, Duplicating Center
Mr. Robert Ryals, Principal, Sunset Elementary School
Mr. Leroy Speck, Supervisor, Duplicating Center
Mrs. Alice Stevens, Secretary
Mrs. Emogene Todd, South Central Area Superintendent
Mr. Larry Walden, Program Director for Instructional Services
Mr. Bill Williams, Artist-Illustrator of Media Production
Dr. Walter Young, Member Florida House of Representatives and Principal, Carol City Junior High School

Mr. Murray Heyert, Administrative Associate in Practicums, Nova University, was certainly helpful in every way. We are most grateful to Mr. Heyert for his willingness to share knowledge and experience.

The practicum report contains six chapters each of which is assigned a number. Following the number assigned to the chapter the subtopics are identified by decimal numbers.

The subtopics and numbering system are as follows:

1.1 need defined

1.2 objectives stated

1.3 approach to the solution

1.4 activities listed

1.5 outcomes

1.6 institutionalization

1.7 recommendations

Topics considered under subtopics are identified by the chapter number followed by a two digit number, such as 1.12.

The writers have endeavored to present the contents of this practicum in a meaningful and responsible manner. However, it should be understood that the activities, actions and requirements necessary to accomplish the functions of each chapter were extremely comprehensive and detailed.

Details not explained within the content of the chapter would fall within the areas of highly technical skills such as computer programming, statistics, and politics.

Many of the changes brought about by this practicum were within the domain of educational policy at both local and state level. In order to help operationalize the contents of this report a student suspension handbook was developed in simple language to serve as a functional guide for practicing administrators in our district.

CHAPTER I

SCHOOL DISCIPLINARY PRACTICES AND RECENT SUPREME COURT DECISIONS

On January 22, 1975, the Supreme Court of the United States decided the Goss vs. Lopez decision concerning suspension of students from public schools.[1] This was followed by the Wood vs. Strickland decision which was handed down on February 25, 1975 and dealt with expulsion of students from public schools.[2] In effect these two decisions have re-defined the procedural responsibilities of school officials in dealing with suspension and expulsion of students from school.

In reaching these conclusions, the Court held that a student being suspended or expelled from school either for a long term or short term period of time is entitled to the tenets of due process. These tenets of due process are as follows: (1) the right to notice of the charge, (2) the right to council, (3) the right to confrontation and cross examination of the witnesses, (4) the privilege against self-incrimination, (5) the right to a transcript of the proceedings, and (6) the right to appeal the decision that is rendered.[3]

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[1] Goss vs. Lopez, Vol. 95 Supreme Court Reporter, p. 729

[2] Wood vs. Strickland, Vol. 95 Supreme Court Reporter, p. 992

[3] Nolte M. Chester, Guide to School Law, Parker Publishing Co., Inc., West Nyack, New York, 1969, p. 73

The Court also found that if a school official deprived a student of his rights under the Fourteenth Amendment of the United States Constitution, the school official or officials could be held liable. A school official was further defined as a teacher, a school administrator or a school board member.[1] As a result, the procedural basis of school administration in suspension and expulsion has been changed. As Justice Powell wrote in the dissenting opinion in the Goss case, "No one can foresee the ultimate frontiers of the new thicket the Court now enters. Today's ruling appears to sweep within the protected interest in education a multitude of discretionary decisions in the educational process."

Justice Powell's insight into the total problem was certainly not without forethought.

As a result of the Goss decision, the Office of Civil Rights of The Department of Health, Education, and Welfare handed down guidelines to be implemented in the 1975-76 school year (see appendix A, p.52). These guidelines proved to be quite controversial; however, this did not stop The Office of Civil Rights from conducting an on-site investigation in the Hillsborough County, Florida, School District in October, 1975 (see appendix B, p.60).

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[1]Wood vs. Strickland, Op. Cit., p. 992

The Office of Civil Rights cited the Hillsborough School District for unfair practices relating to discrimination against minority students. The Office of Civil Rights charged that there was a variance in the number of days minority students and white students were suspended from school and that black students were suspended almost twice as long as white students for the same offense.

The Hillsborough County School District was given thirty days to develop a plan that would guarantee that school discipline policies would not discriminate against any student (see appendix B, p. 60).

At the same time, the Children's Defense League entered the conversation after the Goss decision by stating that they would bring at least twelve cases against school districts in the United States for unfair suspension policies, (see appendix C, p. 62).

Thus, the laws that came out of the Supreme Court decisions have created a national dialogue between school districts and the Office of Civil Rights of The Department of Health, Education, and Welfare. This dialogue has resulted in a definition of what is unsatisfactory and why it is unsatisfactory as regards student suspension and expulsion in most of the school districts throughout the United States. However, this does not change the responsibility of each school district to be in compliance with

the Goss and Wood decisions of the Supreme Court which require that due process be provided for all students.

CHAPTER 2

STAFF INSTRUCTION ON STUDENT SUSPENSIONS

2.1 Need for Testing

The Wood decision stated that a school official could be held liable for denying the student his or her rights whether the action was committed knowingly or unknowingly. Realizing the implications of the Wood decision to both school members and employees, the writers felt it absolutely necessary to determine whether or not personnel understood the tenets of due process.

The Goss vs. Lopez decision of The United States Supreme Court required that a student be afforded the following rights:

A. The student must be given oral or written notice of the charges against him.

B. The student must be given the opportunity to tell his side of the incident.

C. The student must be given a copy of the proceedings that occurred.[1]

Within thirty days of the Goss decision, The United States Supreme Court rendered the Wood decision as a means of enforcing the principles stated in the Goss decision.

The Wood decision stated that a school official, defined as a teacher, administrator, or school board member,

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[1]Goss vs. Lopez, Op. Cit., p. 729.

could be held liable for the violation of the civil rights of the student or students.[1] Therefore, it became necessary to examine the knowledge and practices of school personnel in relation to the Goss and Wood decisions.

2.2 Objectives

The objectives called for the administration of a pre-test and post-test. These tests described several incidents in which students violated school rules. The actions taken by school personnel are considered in the light of the tenets of due process as set forth in the Goss decision.

The test items were designed to measure the teacher's comprehension and application of the law.[2]

2.3 Approach To The Solution

A test was developed which required the taker to examine violations of discretionary decisions mentioned in the Goss case. The test items included actions by students, teachers and administrators.

2.4 Activities

2.4.1 Developing The Test

At the July, 1975, Nova University Summer Institute held at the Diplomat Hotel, Hollywood, Florida, Professor Mark G. Yudof emphasized the necessity to observe due process procedures when considering the expulsion or sus-

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[1]Wood vs. Strickland, Op. Cit., p. 992

[2]Popham, W. James, An Evaluation Guidebook, pp. 21-23

pension of students from school.[1]

Conversations concerning the Goss and Wood decisions were held between the writers and Professor Yudof. Based on the conversations the writers decided to develop a pilot test which included brief cases resulting in suspensions. The test questions would be related to court decisions in order to measure the knowledge, comprehension and application of school personnel in this area as discussed with Professor Yudof.

The initial test was drafted by the writers and administered during the week of the Summer Institute to a class of graduate students in school administration. In addition to the administration of the test, the college professor requested that the writers conduct a discussion on due process. Therefore, at the conclusion of the test the pertinent elements of the Goss and Wood decisions were presented to the class followed by a brief discussion by the class members.

The class members required an extension of time from the projected fifteen (15) minutes that was anticipated to complete the initial test. The students became fatigued, some were unable to complete the test, and the findings of the test as designed were unclear. The writers decided that the test should be constructed of short statements in a multiple-choice format which measured comprehension

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[1]Nova University, Education U. S. A. - 1975 Summer Institute, p. 24

and application of the Goss decision.

The class also recommended limiting the scope of the test to suspensions, since teachers and most school administrators seldom deal with expulsions.

2.4.2 Redevelopment of the Test

The organizational format of the initial test was taken to the Research Department of the Broward County School District. A request was made by the writers for assistance in the development of a simplified test in a multiple-choice format that could be administered in a four-minute period.

The test was constructed using brief statements describing incidents followed by four actions which the taker was required to assess in the light of the Goss decision.

This test design is illustrated by the following examples:

A teacher saw a student shove another student in the hallway.

1. The teacher wrote a referral
2. Based on the information in the teacher's referral, the principal suspended the student for three days
3. The student's request to call home was denied by the principal
4. The principal allowed the student to read the teacher's referral

The participants responded to the individual test items by marking a test scanner sheet in the respective columns of the action as follows:

A. legal

B. illegal

C. questionable

D. unknown

(see appendix D. p.65)

An example of a teacher demonstrating comprehension of the Goss decision as related to the first test item is as follows:

Statement 1. The teacher wrote a referral

Answer (A) legal

By giving the correct response to the statement the participant would have demonstrated his/her understanding of the first requirement of the Goss decision, namely, that a student be given written notice of the charges against him.

A second example of a teacher demonstrating comprehension and application of the Goss decision is as follows:

Statement 2. Based on the information in the teacher's referral, the principal suspended the student for three days

Answer (B) Illegal

By giving the correct response to the statement the participant would have demonstrated his/her understanding of the application of the Goss decision in that the action of the principal was illegal since the student was not given an opportunity to tell his side of the incident.

Thus the test was developed to be used in a four-minute timed situation for both pre-instruction and post-instruction on student suspensions.

2.4.3 Pilot Study of Redesigned Test

The test was administered at Sunset Elementary and Hollywood Hills High School prior to instruction on student suspensions. The same test was administered after the instructional program on suspensions (see appendix D, p.65).

2.4.4 Pre-Test and Post-Test in the Inservice Telecast

A meeting was held with the Superintendent of Schools, Broward County Florida School District for the purpose of reviewing the pre-test and post-test data from the pilot inservice program.

At this time the Superintendent authorized the production of an inservice telecast which was to include a pre-test and post-test (see appendix E, p.69). The telecast was to be produced in color at The Broward County Instructional Television Center for possible broadcast

to all the schools in the district.

2.5 Outcomes

2.5.1 Results of the Pilot Study

The results of the pilot study conducted at Sunset Elementary School and Hollywood Hills High School showed that, on the pre-test, elementary personnel (teachers, counselors, librarians, and administrators) scored twenty-five percent or answered five out of twenty items. Secondary personnel scored thirty-five percent or answered seven out of twenty items.

The instructional program was then presented. Post-test data reflected a fifty-eight percent accurate response for elementary personnel and a fifty-eight percent accurate response for secondary personnel.

None of the personnel tested at any grade level showed sufficient familiarity with the requirements of the law.

2.5.2 Testing of Personnel

The telecast with the pre and post-test format was broadcast to selected elementary, middle, and high schools as well as pre-service personnel and administrative training personnel within the Broward County School District (see appendix F, p. 71).

All categories of personnel; instructional, administrative, and prospective administrators, were grouped together to form a sample of 394 persons participating in the pre-test. The mean score on the pre-test was 12.08 correct answers with a standard deviation of 3.18. The range of scores went from zero correct to seventeen correct and the curve was negatively skewed. Therefore, it was found that sixty-

four percent of the personnel tested had less than seventy percent knowledge of the information requested in the pre-test (see illustration 1).

At the conslusion of the telecast the post-test was administered to a sample of 385 personnel. The net reduction of 9 people taking the post-test was the result of the Superintendent's request that the testing program be voluntary (see appendix G, p.74).

The mean average score on the post-test was 14.09 correct with a standard deviation of 2.02. The range of scores was from 10 to 20 correct and the curve was positively skewed. Therefore, sixty percent of the personnel scored with seventy percent accuracy on the post-test.

Illustration 1 shows the frequency distribution in pre- and post-tests of those responding correctly to answers. The shaded area represents the post-test; thus, it can be easily seen that the pre-test was negatively skewed and that the post-test was positively skewed and that a change did occur in relationship to the instructional program.

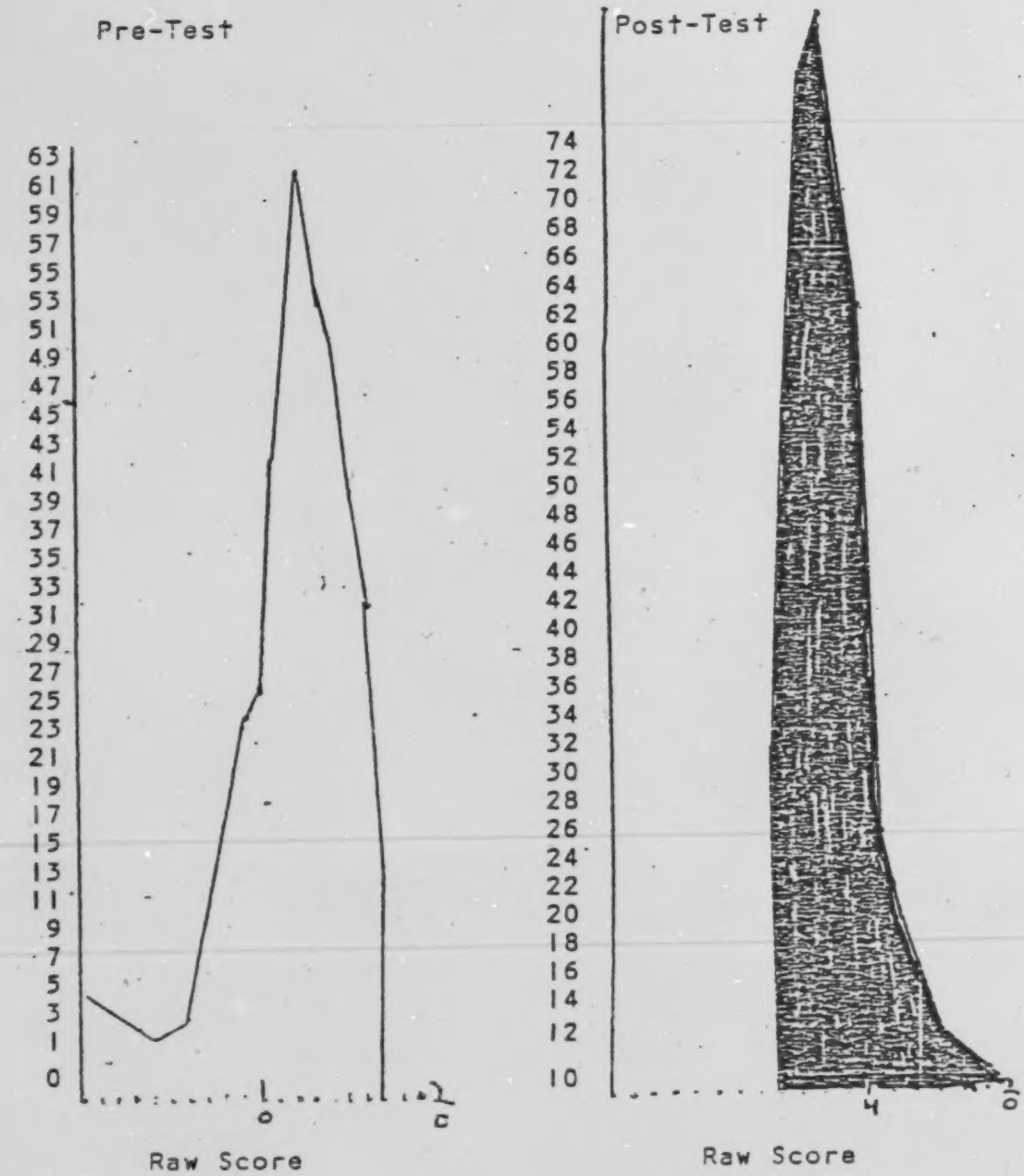
2.6 Institutionalization

The pre- and post-tests were included as part of the inservice telecast on student suspensions. The telecast and test materials were made available by a written request from any principal within the Broward County School District. The materials are currently available upon request from the traffic manager of the Broward County Instructional

ILLUSTRATION 1

Frequency Distribution of Correct Responses

Before and After the Telecast



Television Center.

The Superintendent directed that all prospective administrators participate in this program.

CHAPTER 3

INSERVICE PROGRAM

3.1 Need For Inservice Program

As previously noted in chapter two, Professor Mark Yudof was instrumental in substantiating the implications of the Goss decision regarding the subject of student suspensions and the law.[1]

Subsequent to meeting with Professor Mark G. Yudof the writers were invited to participate in a discussion on the subject of due process. This participation took place with a group of public school teachers who were enrolled in a post-graduate college course. As a result of this discussion, the writers determined that a need existed for further instruction on the subject of student suspensions in the public schools.

A Classroom Discipline Knowledge Questionaire was developed for use with school administrators in the Broward County School District (see appendix H, p. 76).

The survey was designed to determine from what sources the administrative participants acquired their knowledge of due process and student suspensions. The data acquired from the survey indicated a need for the school district to provide inservice opportunities on student suspensions for all personnel.

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[1] Education U. S. A. - 1975, Summer Institute, Op, Cit., p. 24

The writers began planning an inservice education component that would be directed to the groups of personnel in the Broward County, Florida School District. The initial planning included a discussion with the Superintendent of Schools, The Broward County School District, pertaining to the needs demonstrated in chapter two.

Receiving the encouragement and support of the Superintendent of Schools, the writers completed the preparation of a comprehensive inservice education program on Student Suspensions (see appendix E, p. 69). The inservice program was designed for the participation of personnel who were employed by the School Board of Broward County, Florida.

The press has recently reported that the national teachers' organizations were taking a position against the memoranda issued by The Office of Civil Rights.[1] In view of the fact that the local affiliates of teacher organizations were likely to intervene in any attempt that was made to instruct teachers in the subject of due process, the writers decided to conduct a pilot program at two public schools (see appendix I, p. 78).

An inservice model was designed to provide needs-assessment data while at the same time serving as an action vehicle to meet the need of the school district.

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[1]National Education Association, "Let's Set The Record Straight On Student Rights," Today's Education, September - October 1975.

The writers determined by research that the implementation of existing policies and procedures relating to student suspensions did in fact reflect a need in that the district's suspension procedures were in conflict with existing state and federal statutes.

The writers felt that if the suspension procedures of the school system were reviewed by a governmental agency the system would not be able to comply with existing policies.

The pre-test substantiated the lack of understanding on the part of personnel with regard to the procedure for suspending students (see chapter 2).

3.2 Objectives

The objective of the inservice program was the effective instruction of the Goss and Wood decisions as evidenced by the participants responding to a post-test with seventy-five percent accuracy.

In addition, a preservice program for familiarizing newly certificated employees with the requirements of due process will be implemented and made on-going in The Broward County School District by June, 1976.

3.3 Approach To The Solution

The decision relative to the selection of a strategy was particularly important in view of the fact that resistance was anticipated.

With anticipation of resistance from different levels of personnel, it was decided that the most viable strategy for use in attempting to realize our objectives was an inservice education program. Furthermore, it would be emphasized that the participation of teachers and administrators would be voluntary.

The strategy reflected a low profile approach whereby we would deal with individual schools and individual staff members. The approach would minimize exposure of the project to the teacher organizations and principal associations until sufficient data were acquired.

Our inservice strategy also required the expenditure of considerable resources within the Broward County, Florida, School District. The production and transmission of the color telecast, the publishing of the handbook entitled Student Suspensions, and the assistance of numerous staff members in various departments represented a sizable financial commitment by the school district.

3.4 Activities

A plan was developed whereby we would provide inservice instruction to personnel employed by the School Board of Broward County, Florida.

The inservice telecast on student suspensions was designed for use by school-based personnel whereas the handbook entitled Student Suspensions was developed for use by school based personnel and county level administrators.

3.4.1 Inservice For Instructional Personnel

The writers consulted with the Attorney for the School Board of Broward County, Florida, and the Systems Analyst for the School District, to gain approval for the text of the telecast (see appendix J, p. 82).

Following the preparation of the script, visuals, evaluation instruments, and the necessary arrangements with principals, a pilot inservice telecast was conducted in an elementary school and a high

school (see appendix I, p. 78).

The writers presented a brief review of the problems associated with student suspensions followed by a discussion with the faculty members who had volunteered to participate in the telecast. A brief pre- and post-test was included at both schools. A summary of the data from the pilot inservice telecasts was presented to the Superintendent of Schools.

The data from the inservice telecasts along with the data from the school district's procedure for reporting student suspensions indicated a lack of understanding on the part of personnel, as well as inconsistencies in the school district's procedure for reporting student suspension data (see chapters 4 and 5).

Having acquired additional needs-assessment data, it became apparent that a suitable vehicle was needed to implement the extensive inservice plans outlined in the practicum model.

Because there were no remaining teacher work days in the current school calendar the Superintendent recommended that we produce a one-inch color video tape that would be suitable for transmission throughout the one hundred and forty-one schools in the Broward County School District.

With the authorization of the Superintendent of Schools and the cooperation of the Coordinator of the Broward County Instructional Television Center and the personnel of the Center, the production of a video tape was scheduled for March 15, 1976. The twenty-three-minute video presentation entitled Student Suspensions was produced

before an audience of elementary, middle and high school teachers.

Subsequent to the production of the one-inch color video tape entitled Student Suspensions the program was viewed by the Attorney for the School Board of Broward County, Florida and the Systems Analyst for the school district. As a result of the review by the Attorney and the Analyst a paragraph was added to the printed instructions for viewing the telecast. The paragraph clarified the legal prerogative of teachers to send students to the school office as provided in the current contract between the School Board of Broward County and the Broward County Classroom Teacher Association (see appendix D, p. 65).

The ability to amend the telecast by amending the printed instructions resulted in making the telecast transportable to other school districts. The telecast could be amended to agree with existing teacher contracts as well as state and federal statutes.

The telecast entitled "Student Suspensions" was approved by the Superintendent of Schools on April 19, 1976 for transmission by the Broward County Instructional Television Center, KLC 80 (see appendix K, p. 92).

Subsequent to the production of the telecast "Student Suspensions" a total of three hundred ninety-eight elementary, middle, and high school teachers in fourteen schools participated in the inservice program. Advance arrangements were made for the transmission of the broadcast to the schools on specific dates, times, and channels (see appendix F, p. 71).

In addition to viewing the telecast, the teachers also participated in the pre- and post-test. This information was forwarded to the Broward County Test Department where appropriate summaries were provided (see chapter 2).

3.4.2 Inservice Program for Administrative Trainees

The forty-five individuals who were selected by the Personnel Department from the schools and centers to participate in the Group One Administrative Training Program participated in viewing the student suspension telecast. The evaluation data from the telecast are presented in the statistical summary (see chapter 2).

The presentation by the writers was followed by a presentation by the Attorney for the School Board of Broward County, Florida, who answered questions on the subject of student suspensions. The Attorney for the School Board supported the facts and conclusions presented by the writers.

The Program Director for Instruction and Coordinator for the Group Two Administrative Training Program allowed the writers to present the student suspension telecast on May 19, 1976.

These two inservice programs enabled the writers to involve a total of ninety-five administrative trainees in the student suspension telecast, and provided instruction for certificated personnel from fifty-four elementary, middle, and high schools, as well as district-level personnel. The majority of the participants were currently assigned to administrative positions.

3.4.3 Inservice Program for Intern Teachers

Arrangements were made through the Director of Inservice and Intern Teachers to have the intern teachers who were assigned to special education classes participate in the inservice program on student suspensions.

On May 3, 1976, twenty intern teachers viewed the student suspensions telecast and took the tests as a part of the all day orientation workshop at the Exceptional Student Center.

The test data from this inservice session were combined with the data from the other groups to provide additional needs assessment.

3.4.4 Student Suspension Handbook

Whereas the color telecast, Student Suspensions, served as the vehicle to train personnel in the Broward County School District, it was felt that the development of a resource handbook was needed to complement the telecast.[1]

The writers collected, synthesized and edited a resource handbook entitled, Student Suspensions. This document contains court decisions and legislation relating to Student Suspensions as developed by the United States Supreme Court, the United States Government, and the State of Florida. The School Board of Broward County, Florida, policy and procedure on student suspensions are included. To support the aforementioned contents, we have included certain needs-assessment data that were gathered to substantiate the need for the practicum.

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[1]Student Suspension Handbook, Op. Cit., pp. 1-22

The handbook was presented to the Superintendent of Schools and the Systems Analyst, on June 18, 1976, for review and authorization for printing. The Artist-Illustrator of Media Production, undertook the task of designing the format of the handbook. The handbook was printed by the Duplicating Center of the Broward County School District.

One thousand copies of the handbook have been distributed to the schools and centers in the district. In order to insure accessibility of the handbook to all certificated personnel the procedure for distributing School Board policies was utilized.

3.5 Outcomes

The pre-stated objectives of the inservice program were the following:

A. To what extent did the personnel employed by the School Board of Broward County, Florida, respond with accuracy to the objective evaluation administered at the conclusion of the telecast on student suspensions?

B. To what extent did the writers develop a pre-service training course on the subject of student suspensions for new school employees?

The data acquired from the teachers, administrative trainees and administrators who participated in the student suspensions inservice program indicated that sixty percent of the participants responded with seventy percent accuracy on comprehension and application of the Goss decision (see chapter 2).

With the accessibility of the student suspensions telecast and the student suspension handbook to all personnel the immediate need to pursue a School Board policy requiring new employees to view the telecast was tabled. The Broward County School Board, the administration and the writers felt that the passage of an amended School Board Policy on Student Suspensions and Notices of Suspension was a matter of greater importance.

However, the writers did provide an inservice activity whereby intern teachers participating in the Broward County District had the opportunity to benefit from instruction on the subject of student suspensions.

The Director of Inservice Education and Intern Teachers for the School Board of Broward County agreed to assist the writers by including the viewing of the student suspensions telecast as a part of the orientation program for future intern teachers (see appendix L, p. 94).

3.6 Institutionalization

The inservice component of this practicum is a continuing activity in the Broward County School District. The color telecast, "Student Suspension", is available to faculty groups and individuals by request from the traffic manager, the Broward County Instructional Television Center.

Those intern teachers assigned to the Broward County School District in 1976-77 will be given the opportunity to participate in the color telecast as a part of their orientation to the county. The Inservice Education Department will coordinate this effort as reflected in the response of the Director.

CHAPTER 4

NOTICE OF SUSPENSION

4.1 Need for Notice of Suspension

The suspension of a student from school had two requirements defined by the Goss decision. The first requirement had to do with suspensions with prior notice. Prior notice provided the student with notice of the charges against him and the basis of the charges, the opportunity for the student to present his version of what happened and a notice of the disposition of the hearing and suspension.

The second requirement of the Goss decision was that if a student's conduct threatened the well-being of others or interrupted the academic process, an immediate suspension without prior notice of the charges could occur, but a hearing would have to be conducted within a reasonable period of time, after the suspension, thereby providing the student with his civil rights.

To accomplish a notice of the disposition of the hearing with prior notice of suspension or to accomplish a hearing within a reasonable period of time when a suspension without prior notice occurred, the need to develop a mode of formal communication to the student and/or parent or guardian was indicated.

4.2 Objectives

The practicum objective called for the the development of a notice of suspension which is consistent with the Goss decision.

The notice of suspension would be developed as a part of a Uniform Suspension Reporting System and would provide for the following:

A. A notice of Suspension of up to ten days with prior notice consistent with the Goss decision

B. A notice of Suspension of up to ten days without prior notice consistent with the Goss decision

C. A report of the specific allegation against the student

4.3 Approach to the Solution

A formal letter of suspension with prior notice, which included the documentation of the preceedings, was developed. A formal letter of suspension without prior notice, which provides for a hearing within a reasonable period of time after the suspension, was developed.

4.4 Activities

A review of the School Board Policy #5006, entitled Suspensions and Dismissals, was made to determine whether or not the policy was in compliance with federal and state statutes. Through research the writers determined the policy rules were not consistent with the Goss decision of the United States Supreme Court.

The rules required the statement of the reasons and authority to suspend students as stated in the State of Florida Statutes, but principals were limited by School Board action to suspending students for a maximum of five days. No provision for a prior hearing was provided but rather a requirement to notify the parent or guardian and student by mail was required.

If a suspension was to be extended beyond a five day period, but not to exceed ten days, the principal would provide for a hearing or conference during the first five days of suspension.

The rules called for this Notice of Suspension to be sent to the parents on Forms S-1 or S-2 (see appendix M, p. 96).

The identification of the inconsistencies in the rules of the policy prompted the amendment of the existing School Board Policy to make it consistent with the Goss decision. The proposed policy required that a student within the school district not be suspended or dismissed from school for any period without being provided with an opportunity for a hearing pursuant to the rules of the School Board.[1]

The rule changes would provide:

A. When suspending a student for any period of time up to but not exceeding ten days the principal or his designated representative must comply with the following procedure where applicable:

Hearing procedures preceding students removal from school

1. The student shall first be given oral and/or written notice of the charges against him including basis of the charges.
2. The student shall be provided with the opportunity to present his version of what happened.

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[1] Student Suspension Handbook, Op. Cit., pp. 1-22

3. Notice of the disposition of the hearing and suspension, using Form S-1 shall be sent by certified or registered mail or hand delivered, signed receipt requested, to the parent, guardian or if 18 or over, the student himself.

B. If, in the opinion of the principal or his representive, he has justifiable reason to believe that notice and hearing prior to suspension is not feasible as in the case of an emergency situation such as when a student's presence poses a continuing danger to persons or property or an on-going threat of disrupting the academic process then he may immediately suspend the student and conduct a subsequent hearing with notice to the parent or guardian.

Hearing procedures subsequent to removal from school:

1. Within twenty-four hours of the student's suspension, the principal or his representative shall send notice of the suspension and charges against him by any of the following means: by registered or certified mail (return receipt requested) or personally delivered by the principal, his representative, or a visiting teacher and receipt of the delivery to said parent or guardian shall be obtained. Included in the notice shall be the date, place and time of the hearing. Form S-2 shall be used for purposes of notification.
2. The hearing shall be held within seventy-two hours of the student's removal from school.

3. The hearing shall be conducted as set forth in Section 2a and the student may have his parents or guardian present at the time of the hearing.

4.4.1 Notice of Suspension With Prior Hearing

Considering the aforementioned proposed policy, a notice of suspension of up to ten days with prior hearing was drafted.

This revised notice S-1 is addressed to the parent or guardian of the student and it includes the student's grade, date of birth, race, and sex as required by the Office of Civil Rights. The body of the letter is designed to list the Board Policy number, the duration of the suspension and documentation of the proceedings of the student hearing, including the date, time, place and circumstances of the alleged activity. The concluding paragraph acknowledges that a hearing was held and that the student was suspended for a specific number of days. The parent or guardian is allowed the opportunity to discuss the suspension (see appendix N, p.99).

4.4.2 Notice of Suspension Without Prior Hearing

Another notice of suspension of up to ten days duration without prior hearing was drafted (revised notice S-2). This notice is consistent with that portion of the policy which states that a student could be suspended if the academic process was interrupted or the student's presence posed a continuing danger to persons or property. Again the notice is addressed to the parents or guardian of the student and states the month, day, year the student was suspended, the policy number and the allegation for which the student was suspended. The concluding paragraph states a date, time, place for the hearing to take place and allows the parents or guardian the

opportunity to reschedule the hearing if the designated time was inconvenient.

If either the stated hearing date or a rescheduled hearing date is ignored, the administrator in charge has the authority to extend the duration of suspension up to the ten day maximum (see appendix N, p. 99).

4.5 Outcomes

4.5.1 Criteria

The pre-stated objectives of the notice of suspension were the following:

A. The notice of charges, including the date and time of the alleged action

B. The notice of the date of a hearing

C. The opportunity for the student to state his version of the incident and to be accompanied by a parent

4.5.2 Board Policy and Notices of Suspension:

In late August, 1975, the School Board of Broward County took under review the proposed Policy #5006 and the appropriate Notice of Suspension. The Notices of Suspension, S-1 and S-2, were adopted; however, the policy itself was remanded to the School Board attorney because the Goss decision stopped short of explaining what constitutes a hearing.

4.5.3 School Board Policy #5006

The amended School Board Policy #5006 and corresponding Policy Rules have currently passed the three required public hearings. The policy is now in the twenty-day interim period and will be implemented in the 1976-77 school year.

4.6 Institutionalization

The Notices of Suspension, Forms S-1 and S-2, are being used in the Broward School District; however, administrators were informally warned of the inconsistencies in the existing board policy in the 1975-76 school year. The amended School Board Policy #5006 will be effective at the conclusion of the twenty day interim period.

CHAPTER 5

UNIFORM REPORTING SYSTEM OF SUSPENDED STUDENTS

5.1 The Need For A Uniform Suspension Reporting System

A uniform method of reporting the suspension of students was used within the Broward School District. This accounting procedure was as follows: the school clerk indicated "S" (for suspension) after the student number on the IBM cards in column 13; the cards were punched and sent to the computer center; the results were totaled and tabulated systemwide. The results reported the total number of suspensions monthly and year-to-date.[1]

The acquired data were inadequate with regard to the memorandum of the Office of Civil Rights of The Department of Health, Education, and Welfare which required the following information for each student:

A. Racial/ethnic designation

B. Sex of student

C. The school attended

D. Description of the offense/offenses

E. Duration of suspension

Etc. (see appendix A, p. 52)

The aforementioned information could not be retrieved district-wide. A method of accounting for these procedures was required

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[1]Automated Daily Attendance Reporting Program, The School Board of Broward County, Florida, 1974, p. 34

at the county level as a vital way of monitoring the procedures of each school in the district.

5.2 Objectives

The objectives of the Uniform Reporting System of Suspended Students called for the establishment of a uniform suspension reporting system which listed:

A. Categorical types of offenses
B. Number of days student was suspended
C. Race/ethnic designation of student
D. Sex of student
E. School attended by student
F. Number of suspensions per school
    1) monthly basis
    2) total accrual basis
G. Total suspension monthly, district wide, by the aforementioned categories

5.3 Approach to the Solution:

A uniform reporting system of suspension within the School District was developed by creating appropriate forms, procedures, and accounting processes which were implemented to provide the information cited in section 5.2.

5.4 Activities

5.4.1 Superintendent's Permission

A meeting was held with the Superintendent in order to review the memorandum issued by The Office of Civil Rights. Subsequently, the Superintendent gave verbal approval to initiate the practicum, requesting

that a formal memorandum be drafted stating that the report not include the names of individual students or names of schools. The memorandum was drafted (see appendix G, p. 74).

5.4.2 District Suspension Reporting Data

The pre-existing District Suspension Reporting Data were acquired from the Pupil Accounting office. They revealed that when suspensions were reported on the student attendance cards, the data were retrieved and counted, showing only the number of suspensions that occured within the month. If a student was suspended in an interval which would include days between two months, the suspension was entered twice. Therefore, the total number of suspensions reported was not accurate (see illustration 2).

5.4.3 Computer Center

A visit to the computer center revealed that all the information about the students enrolled in the Broward County School District was listed on the Student Identification Directory (SID). The information was also retrievable. This information included attendance, suspensions, withdrawals, transfers, and the dates, but did not include the reason for suspension and the specific schools involved. Therefore, a need existed to identify the school, the student, and the category of suspension for each student.

To indicate the categories of suspension and the identification of the school and student, a programmer from the computer center suggested the design of an optical scanner sheet that contained the information listed above. The programmer could then retrieve the data requested in any format desired from SID.

ILLUSTRATION 2

TOTAL NUMBER OF SUSPENSIONS REPORTED BY SCHOOLS

AUGUST - OCTOBER, 1975

SCHOOLS	NO. OF SUSPENSIONS
A	5
B	4
C	6
D	2
E	3
F	1
G	4
H	6
I	1
J	0
K	2
L	4
M	3
N	1
O	5
P	4
Total Suspensions	51

The Student Identification Directory listed the student's number, sex, race, ethnics, home address, phone number, birth date, grade level, and attendance. This information was tied to the attendance reporting system of the district.[1]

The school reports its daily attendance by forwarding the daily attendance IBM cards to the Pupil Accounting Office.

The attendance IBM cards contain the school number, date, student number, and symbols indicating whether the student was absent, suspended or present (see illustration 3).

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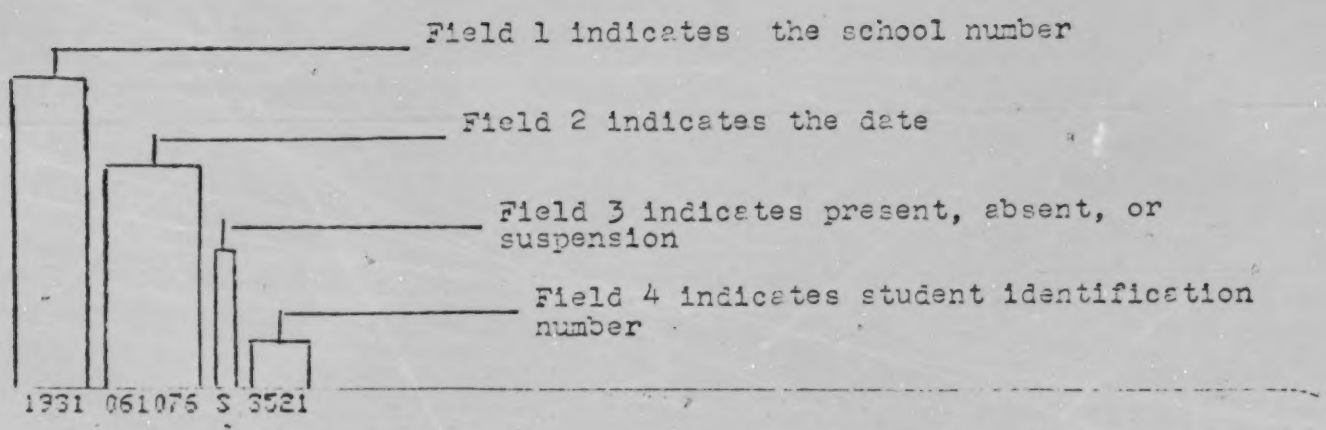
[1]Automated Daily Attendance Reporting Program, Op. Cit., pp. 25-28

ILLUSTRATION 3

ATTENDANCE I.B.M. CARD


Field 1 indicates the school number
Field 2 indicates the date
Field 3 indicates present, absent, or suspension
Field 4 indicates student identification number
1931 061076 S 3521

5.4.4 Scanner Sheet of "Suspension of Students"

The scanner sheet was designed for the explicit purpose of identifying the schools and the categories of suspensions for each student (see illustration 4).

All schools within the Broward School District have a four digit identification number. The school's number was located in the upper left-hand corner of the scanner sheet.

The appropriate month of the year was listed adjacent to the school number and in case an error was made in identifying a school's number, a space was provided for the school to report its name.

The blocked areas with alternating colors of white and pink provided sufficient space for the identification of student numbers with the categorical definitions for reasons of suspensions.

The list of categorical suspensions were defined by the writers. This was a result of their review of the notice of suspension letters which listed specific offenses (see chapter 4).

5.4.5 Uniform Reporting System

A uniform reporting system was developed by the use of the existing attendance reporting system and the scanner sheet system. The new system merged the information from SID and the scanner sheet through computer programming to provide a print-out of categorical suspensions school by school and all of the information necessary to comply with the memorandum of The Office of Civil Rights of The Department of Health, Education, and Welfare (see illustration 5).

ILLUSTRATION 4

SUSPENSION OF STUDENTS' SCANNER SHEET

SCHOOL NAME_____

THE SCHOOL BOARD OF BROWARD COUNTY

SCHOOL

MONTH
JAN
FEB
MAR
APR
MAY
JUN
JUL
AUG
SEP
OCT
NOV
DEC

student number

insubordination
fighting/assaults
profanity/obscenity
disruption of school functions
verbal assault of school pers.
physical assault of school pers.
damage school prop.
narcotics
intoxicants
weapons
theft
smoking
extortion gambling
area supt. suspensions
dismissal recommendations
other

NAME

student number

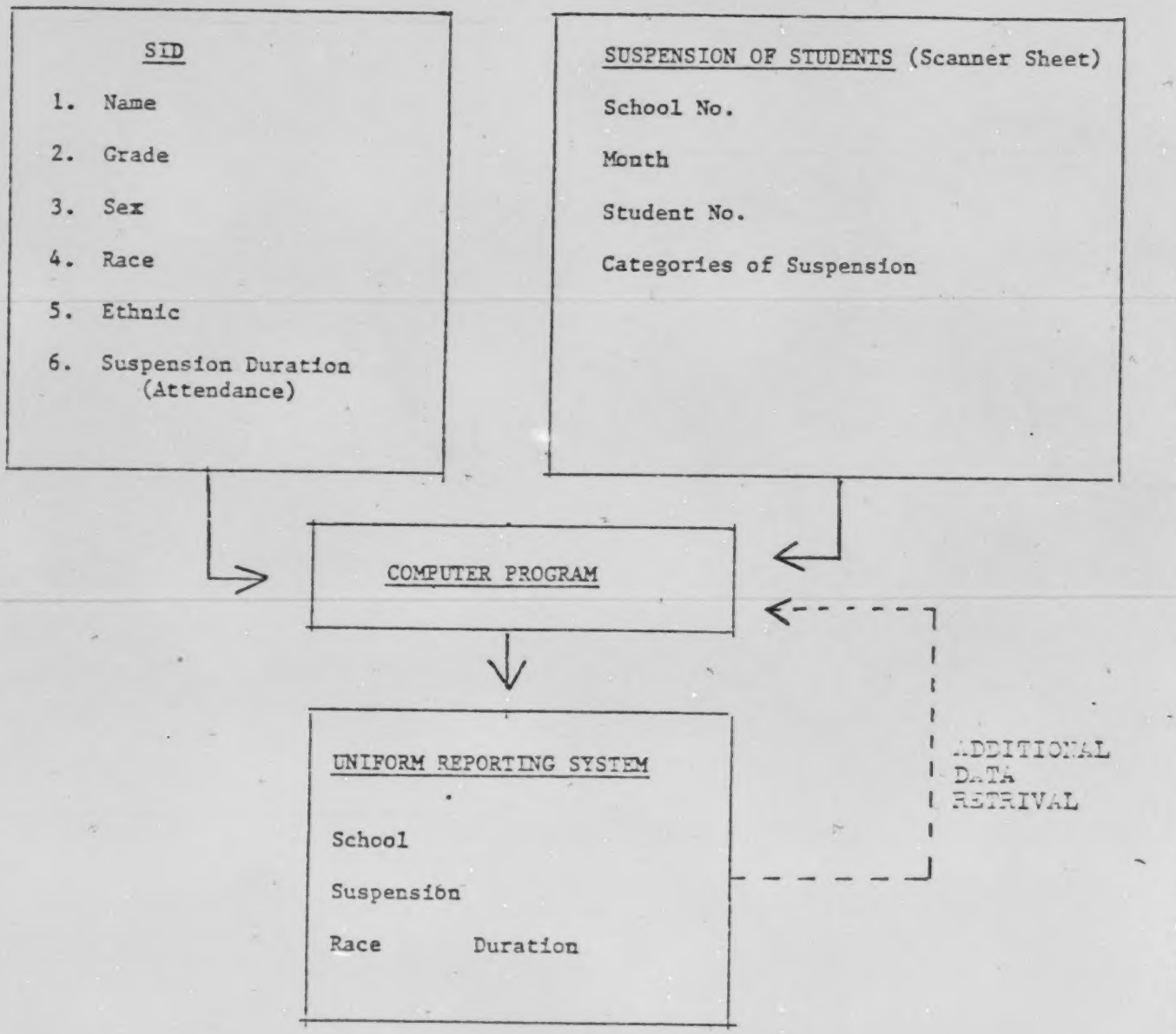
insubordination
fighting/assaults
profanity/obscenity
disruption of school functions
verbal assault of school pers.
physical assault of school pers.
damage school prop.
narcotics
intoxicants
weapons
theft
smoking
extortion/gambling
area supt. suspensions
dismissal recommendations
other

NAME

52

ILLUSTRATION 5

FLOW CHART, SUSPENSION REPORTING SYSTEM



5.4.6 Area and School Implementation of Uniform Suspension Reporting System

In October, 1975, the scanner sheets were distributed to the principals in two of the respective areas of the district. This was accomplished with the assistance of the two area superintendents working with the writers. The principals were given instructions for the completion of the Student Suspension scanner sheets and were requested to forward them to the Pupil Accounting Office at the end of October, 1975.[1]

The initial scanner sheets and corresponding printouts were studied during the first week of November to determine if any specific problems existed. No problems were identified. Therefore, the Student Suspension scanner sheets were distributed in the second week of November to all schools in Broward County District along with the instructions previously given to the pilot schools within the two areas in the district.

5.5 Outcomes

5.5.1 Evaluative Criteria

The pre-stated objectives for the Uniform Reporting System were the following:

A. To report the number of suspensions in each school per month and year to date

B. to report the categories of suspensions in each school per month and to date

C. to report the total number of suspensions in the district per month and accrued to date

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[1] Student Suspension Handbook, Op. Cit., pp. 19-22

D. to identify the grade level, race, sex, and duration of each suspension within the school and district

5.5.2 Pilot Study of Two Districts

At the conclusion of the October-November, 1975 pilot study the data from the uniform suspension reporting system were reviewed for the two areas that were used in initiating the system.

The report reflected a disproportionate ratio of white and black students suspended in the school district. However, it was noted that the total number of suspensions within the school district decreased (see illustration 6). Data on other ethnic groups are retrievable in a similar format.

The report showed inconsistencies in the duration of suspensions for the same offense within the same school and the duration of suspensions for the same offense from school to school.

The Uniform Reporting System did identify by school the categories of suspensions, duration, race-ethnic designation, sex, and totals monthly and accrued to date. Print-outs were provided which totaled the respective information on a monthly and accrued basis district wide (see illustration 7).

5.5.3 Side-Effects

One of the unanticipated side-effects of the implementation of the student suspension scanner sheet was the failure of the schools to respond to the category of suspension identified as "others." All schools elected to use one of the twelve categories of suspensions listed on the student suspension scanner sheet. Therefore, there was no need

ILLUSTRATION 6

BACHARD COUNTY REPORT OF SUSPENSION OF BLACK STUDENTS

1975 - 1976

GRADE	%	*1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	0																
2	0																
3	0																
4	0																
5	0	1															
6	1.9	25	35	4	7	2	2				1	5		2			
7	5.2	53	93	11	21	17	7	2		1	3	8	3				
8	8.0	115	109	34	26	17	8	3	1	1	1	18	1	2			
9	12.2	227	124	45	31	30	5	1	1	1	7	30	8	3			
10	8.5	134	99	21	22	28	3	5	9	4	5	20	7	3			
11	6.6	102	74	25	7	18	3	1	13	5	3	14	11	2			
12	2.3	37	34	7	1	7	2		1	1	1	2	4				
TOTAL	44.7	694	568	147	115	119	30	12	25	13	21	97	34	12	0		0

1. *insubordination
2. fighting/assaults
3. profanity/obscenity
4. disruption of school functions
5. verbal assault of school pers.
6. physical assault of school pers.
7. damage school prop.
8. narcotics
9. intoxicants
10. weapons
11. theft
12. smoking
13. extortion/gambling
14. area supt. suspensions
15. dismissal recommendations
16. other

ILLUSTRATION 7

BROWARD COUNTY REPORT OF SUSPENSION OF STUDENTS

IN ONE HIGH SCHOOL FOR MARCH, 1976

School # 1234 Anywhere High School Month March

Student #	Name	Sex	Race	*Offense	Duration of Suspension
436211	John Doe	M	W	10	4
321123	Mary Doe	F	B	5	1
123321	Bill Doe	M	W	7	2

*
1. insubordination
2. fighting/assaults
3. profanity/obscenity
4. disruption of school functions
5. verbal assault of school pers.
6. physical assault of school pers.
7. damage school prop.
8. narcotics
9. intoxicants
10. weapons
11. theft
12. smoking
13. extortion/gambling
14. area supt. suspensions
15. dismissal recommendations
16. other

Total Suspensions for Month				Total Suspensions For Year
Race - W	Sex - M	2		7
Race - W	Sex - F	0		2
Race - B	Sex - M	0		4
Race - B	Sex - F	1		2
Total:		3	57	15

to form a review committee to consider suspensions listed as "others."

Another side-effect was the inconsistancy of the duration of suspensions for the same offense within the same school. An example of this was fighting. One student had been suspended for two days while another had been suspended for ten days.[1]

5.6 Institutionalization of the Uniform Suspension Reporting System

The Uniform Suspension Reporting System is an on-going process within the Broward School District in each of the one hundred forty-one schools. The system is consistent with the requirements and guidelines of The Office of Civil Rights.

The Florida Legislature has most recently required that school principals include the total number of suspensions during the school year in the school's annual report.

5.7 Recommendations

The side-effects listed in 5.5.3 will be dealt with in the 1976-77 school year when the Broward County School Board Personnel review the handbook entitled Student Suspensions.

Additional applications of the established format of reporting student suspensions may be applied in the following areas: expulsion, corporal punishment, and alternative measures for students with special needs.

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[1] Student Suspension Handbook, Op. Cit., p. 17

CHAPTER 6

Summary

The processes and products presented in the various chapters of this text are the direct result of the Goss and Wood decisions as interpreted by The Office of Civil Rights in its memorandum. In order to implement the guidelines in this memorandum, a reorganization of operating precedures had to be developed in relationship to the knowledge of the instructional personnel of the school district.

The knowledge of the instructional personnel was measured by the results of the pre-test that was administered to the administrators, teachers, and pre-certified personnel. The pre-test data indicated a lack of understanding on the part of school personnel in dealing adequately with the Goss decision. The lack of understanding was further documented in reviewing the computer print-outs on the number of days that students were suspended for the same offense within the schools and district. The inconsistencies in student suspensions showed a need for greater understanding of these Court decisions.

The result of the needs established by the pre-test and the inconsistencies of student suspensions resulted in a twenty-three minute color video telecast entitled "Student Suspensions." The telecast was produced before an audience of elementary, middle and high school teachers and administrators. This telecast was produced for the training of personnel in the hundred and forty-one schools in the Broward School

District.

The ability to amend the telecast by amending the printed instructions resulted in making the telecast transportable to other school districts. The telecast could be amended to agree with existing teacher contracts as well as state and federal statutes.

In addition to the inservice telecast, a review of School Board Policy #5006 on suspensions, identified inconsistencies in the rules as related to the Goss decision.

Compliance with the Goss decision was accomplished by developing the following forms:

A. A notice of suspension of up to ten days with prior hearing

B. A notice of suspension of up to ten days without prior hearing

C. A report of the specific allegations against the student

A formal letter of suspension with prior notice was developed. This letter includes the documentation of the proceedings of the hearing.

A formal letter of suspension without prior notice was also developed. This letter provides the student with a hearing to be held within a reasonable period of time after the suspension.

The writers also implemented a uniform system for reporting student suspensions within the Broward County district. The system contains the appropriate forms and accounting processes. The new uniform reporting system is currently generating accurate data for the Superintendent of Schools and the administration.

A handbook entitled Student Suspensions was developed. It contains the following information:

Responsibility and Authority of the School Board

Responsibility and Authority of the Superintendent

Responsibility and Authority of the Principal

Responsibility and Authority of the Teacher

Immunity Clause

Constitutional Rights of Students

School Board Policy on Suspension of Students

Uniform Procedures for Reporting Student Suspensions

To date, one thousand copies of the handbook have been distributed to the schools in the district. Requests for copies of this handbook have come in from many other school districts in the United States (see appendix O, p.102).

The uniform suspension procedures provide information that will assure compliance and provide the possibility for a continuing review of adherence to the Goss and Wood decisions. These uniform procedures have provided the necessary information, training of staff, reporting forms, policies, and operating procedures to form a uniform code of student suspension. The uniform code is on-going within the Broward School District.

GLOSSARY

Designee: A person chosen or appointed for a special purpose. The designee is generally an assistant principal, administrative assistant or dean in the context of this work.

Due Process: The reasonable exercise of authority by school officials to protect student rights.

Hearing: The opportunity for a student to tell his version of the incident that alledgably took place.

Liable: When a person is legally obligated or responsible

Notice: A short written critical account referred to in the context of this work as Notice of Suspension.

Policy: A definate course or method of action selected to guide and determine present and future action.

Statutes: Laws enacted by the legislative power in a state.

Suspension: The temporary removal of a student from his/her normal school program for a period not to exceed ten school days.

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APPENDICES

APPENDIX A

MEMORANDUMS FROM THE OFFICE OF CIVIL RIGHTS OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Division of Instructional Services

September 23, 1975

TO: Principals
Area Superintendents

FROM: Harry F. McComb H.F.M.
Systems Analyst

SUBJECT: Memorandums from Department of Health, Education, and Welfare

Attached to this memo are two documents from the Department of Health, Education, and Welfare concerning compliance with Title VI of the Civil Rights Act of 1964 and Title IX of the educational amendments of 1972. The second document concerns itself with Record Keeping on Student-Discipline Procedures and Actions in School Districts.

It is extremely important that we comply with the items noted in these two memorandums. It is expected that on site visits will be made by the Department of Health, Education, and Welfare on these and other matters concerning compliance with these Titles and other Federal Acts.

Please give your immediate attention to these matters.

HFM/je
Attachments

cc: Mr. James E. Maurer
Mr. William Drainer
Mr. Warren Cox
Mr. Cato Roach
Mr. Larry Walden

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

RECEIVED
SUPERINTENDENT'S OFFICE
1975 SEP -2 P 11:34

AUGUST 1975

MEMORANDUM FOR CHIEF STATE SCHOOL OFFICERS
AND LOCAL SCHOOL DISTRICT SUPERINTENDENTS

SUBJECT: Identification of Discrimination in the Assignment of Children to Special Education Programs

Title VI of the Civil Rights Act 1964 and the Departmental Regulation (45 CFR Part 80) promulgated thereunder require that there be no discrimination on the basis of race, color, or national origin in the operation of any programs benefiting from Federal financial assistance. Similarly, Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs or activities benefiting from Federal financial assistance.

Compliance reviews conducted by the Office for Civil Rights have revealed a number of common practices which have the effect of denying equality of educational opportunity on the basis of race, color, national origin, or sex in the assignment of children to special education programs.

As used herein, the term "special education programs" refers to any class or instructional program operated by a State or local education agency to meet the needs of children with any mental, physical, or emotional exceptionality including, but not limited to, children who are mentally retarded, gifted and talented, emotionally disturbed or socially maladjusted, hard of hearing, deaf, speech-impaired, visually handicapped, orthopedically handicapped, or to children with other health impairments or specific learning disabilities.

The disproportionate over- or underinclusion of children of any race, color, national origin, or sex in any special program category may indicate possible noncompliance with Title VI or Title IX. In addition, evidence of the utilization of criteria or methods of referral, placement or treatment of students in any special education program which have the effect of subjecting individuals to discrimination because of race, color, national origin, or sex may also constitute noncompliance with Title VI and Title IX.

In developing its standards for Title VI and Title IX compliance in the area of special education, the Office for Civil Rights has carefully reviewed

SEP 18 1975

many of the requirements for State plans contained in Section 613 of the Education Amendments of 1974 (P.L. 93-380), which amended Part B of the Education of the Handicapped Act.

Based on the above, any one or more of the following practices may constitute a violation of Title VI or Title IX where there is an adverse impact on children of one or more racial or national origin groups or on children of one sex:

1. Failure to establish and implement uniform nondiscriminatory criteria for the referral of students for possible placement in special education programs.

2. Failure to adopt and implement uniform procedures for insuring that children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement including, but not limited to the following:

   a. prior written and oral notice to parents or guardians in their primary language whenever the local or State education agency proposes to change the educational placement of the child, including a full explanation of the nature and implications of such proposed change;

   b. an opportunity for the parents or guardians to obtain an impartial due process hearing, examine all relevant records with respect to the classification of the child, and obtain an independent educational evaluation of the child;

   c. procedures to protect the rights of the child when the parents or guardians are not known, unavailable, or the child is a ward of the State, including the assignment of an individual, who is not an employee of the State or local educational agency involved in the education of children, to act as a surrogate for the parents or guardians;

   d. provisions to insure that the decisions rendered in the impartial due process hearing referred to in part (b) above shall be binding on all parties, subject only to appropriate administrative or judicial appeal; and

procedures to insure that, to the maximum extent appropriate, exceptional children are educated with children who are not exceptional and that special classes, separate schooling, or other removal of exceptional children from the regular education environment occur only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aides and services cannot be achieved satisfactorily.

3. Failure to adopt and implement procedures to insure that test materials and other assessment devices used to identify, classify and place exceptional children are selected and administered in a manner which is non-discriminatory in its impact on children of any race, color, national origin or sex.

   Such testing and evaluation materials and procedures must be equally appropriate for children of all racial and ethnic groups being considered for placement in special education classes. In that regard procedures and tests must be used which measure and evaluate equally well all significant factors related to the learning process, including but not limited to consideration of sensorimotor, physical, socio-cultural and intellectual development, as well as adaptive behavior. Adaptive behavior is the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of her or his age and cultural group. Accordingly, where present testing and evaluation materials and procedures have an adverse impact on members of a particular race, national origin, or sex, additional or substitute materials and procedures which do not have such an adverse impact must be employed before placing such children in a special education program.

4. Failure to assess individually each student's needs and assign her or him to a program designed to meet those individually identified needs.

5. Failure to adopt and implement uniform procedures with respect to the comprehensive reevaluation at least once a year of students participating in special education programs.

6. Failure to take steps to assure that special education programs will be equally effective for children of all cultural and linguistic backgrounds.

School officials should examine current practices in their districts to assess compliance with the matters set forth in this memorandum. A school district which determines that compliance problems currently exist in that district should immediately devise and implement a plan of remediation. Such a plan must not only include the redesign of a program or programs to conform to the above outlined practices, but also the provision of necessary reassessment or procedural opportunities for those students currently assigned to special education programs in a way contrary to the practices outlined. All students who have been inappropriately placed in a special education program in violation of Title VI or Title IX requirements must be reassigned to an appropriate program and provided with whatever assistance may be necessary to foster their performance in that program, including assistance to compensate for the detrimental effects of improper placement.

Some of the practices which may constitute a violation of Title VI or Title IX may also violate Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended by the Rehabilitation Act of 1973 (P.L. 93-516) which prohibits discrimination on the basis of handicap; and other practices not addressed by this memorandum and not currently prohibited by Title VI or Title IX may be prohibited by that Section. The Office for Civil Rights is currently formulating the regulation to implement Section 504.

School districts have a continuing responsibility to abide by this memorandum in order to remain in compliance with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.

Martin Gerry
Acting Director
Office for Civil Rights

COUNTY, FLORIDA

-2 PM 4: 14

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20201

August 1975

MEMORANDUM FOR CHIEF STATE SCHOOL OFFICERS

SUBJECT: Record Keeping on Student-Discipline Procedures and Actions in School Districts

The Office for Civil Rights has recently reviewed and analyzed certain data on student discipline actions, which have been submitted on the Annual Civil Rights Survey Forms OS/CR 101 and 102 by recipient school districts. This data shows that, in many hundreds of school systems throughout the Nation, minority children are receiving a disproportionate number of discipline actions in the form of expulsions and suspensions and are being suspended for longer periods than nonminority children.

The Elementary and Secondary Education Division of the Office is now undertaking a program to ascertain compliance with civil rights statutes in school systems where there appear to be possible violations in the administration of student-discipline actions. In the course of the program, this Office will require school districts to furnish a number of documents relating to student discipline actions and procedures to serve as a basis for a preliminary determination of possible violations of these statutes.

Title VI of the Civil Rights Act of 1964 and the Department Regulation 45 CFR (Part 80) promulgated thereunder require that there be no discrimination on the basis of race, color, or national origin in the operation of any federally assisted programs. Section 80.6(b) of this Regulation provides:

> Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. For example, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally-assisted programs.

Similarly, Title IX of the Education Amendments of 1972 states in Section 901(a):

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance ...

The purpose of this memorandum is to request Chief State School Officers and their staff to inform their constituent school systems of the necessity to keep and retain complete records of student disciplinary actions and procedures. Although most school systems keep records on these matters already, we believe it would be of benefit to all school administrators to learn of the nature of the information this Office expects school systems to maintain. School districts are expected to retain all records regarding student disciplinary actions for at least the past two school years. Beginning with the 1975-76 school year, the Office for Civil Rights requests that all school systems receiving Federal financial assistance maintain the following kinds of documents.

- State statutes pertaining to student discipline, including regulations or by-laws issued by the State Board of Education.

- Written statements issued by the Board of Education, the Superintendent of Schools, school principals, teachers, or other agents of the Board regarding school policies, standards, practices, and procedures for the discipline of students including, but not limited to, by-laws, handbooks, notices, memoranda or logs. The criteria and procedures used to develop these written statements should be explained, as well as the means by which they were communicated or disseminated to school staff, parents, and/or students.

- An accounting of the numbers of students subject to disciplinary actions as described below starting with the school year 1975-76. This accounting should contain an entry for each student subject to disciplinary action as described below, the racial/ethnic designation and sex of the student, the school attended, a description of the offense or offenses for which disciplined, the title of the person or persons reporting the offense, the title of the person or persons imposing the action or actions, and a concise procedural

APPENDIX B

SCHOOL UNFAIR IN DISCIPLINE, U.S. ASSERTS

Fort Lauderdale News, Thursday, Dec. 11, 1975 13C

School Unfair In Dicipline, U.S. Asserts

The Associated Press

TAMPA — Hillsborough County educators have 30 days in which to develop a plan to guarantee that school discipline policies do not discriminate against blacks.

The U.S. Office of Civil Rights, which made an on-site investigation two months ago, says it found an indication of unfair practices in some schools.

In five schools studied, investigators found that "discliplinary sanctions were meted out in an arbitrary and inconsistent manner," William Thomas, regional director for the civil rights office, said yesterday.

However, the agency said it found indications of possible racial discrimination in the punishment process at only one school.

That was at Monroe Junior High School, where blacks were paddled and suspended more often and for longer periods than white pupils, the report said.

White students were suspended at Monroe for disrespect for an average of 4.5 days, while black students received an average 9.7 days suspension for the same offense, the report stated.

And it indicated that 50 per cent of the white children in trouble were able to work their problems out with conferences, while only 25 per cent of the blacks had the same opportunity.

In the other four schools, the report claimed minority students accounted for 13.5 per cent of the student population, but 69 per cent of the suspensions.

School officials dismissed the report as erroneous and irresponsible.

"The facts in our situation don't warrant this type of letter," Supt. Raymond Shelton said. "It shows a lack of understanding.

"We're not changing anything until the board votes for a change," he said. "That is, tomorrow youngsters won't be treated any differently than they were today."

The school board plans to take the matter up at its meeting next Tuesday night, officials said.

APPENDIX C

EDUCATION U. S. A., VOLUME 18, NUMBER 4

EDUCATION U.S.A.

The independent weekly education newspaper published by the National School Public Relations Association

Washington, D.C. • September 22, 1975
Vol. 18, No. 4

SCHOOL SUSPENSIONS ARE 'RAMPANT,' STUDY SAYS

The use of suspensions in public schools has reached mammoth proportions, with the vast majority being for minor offenses like tardiness, according to a new study by the Children's Defense Fund (CDF). Over one million pupils were suspended in 1972-73, according to CDF director Marian Wright Edelman, or 1 in every 24 students in reporting districts. Based on data from HEW's Office for Civil Rights, the statistics showed that at the secondary level the number rose to 1 in 13. Although the report reveals "rampant" suspensions, even it "underestimates the problem of disciplinary exclusions," Edelman said. According to CDF, the figures do not include pupils who were sent home for "cooling-off," placed in special classes, or transferred among schools or districts.

CDF found that 63.4% of suspensions were for nondangerous offenses, like tardiness, truancy or violations of dress codes, although the leading cause was fighting--36.6%. Less than 3% of suspensions were for destruction of property, the use of drugs or alcohol or other criminal activity endangering people, according to CDF. But, even in instances of dangerous behavior, a child should only be suspended until a way can be found to help solve his problem, said Edelman. Most children who commit violent or illegal acts are expelled, not suspended anyway, Edelman emphasized. Suspensions are often imposed without giving students an opportunity to explain or without contacting his parents, CDF charged. Only 3.4% had any hearing, despite the recent U.S. Supreme Court decision in Goss requiring rudimentary hearings, CDF said. However, educators insist that such hearings take place as a matter of course in most cases. CDF also found that there is a great variation in the length of suspensions and in the number and kinds of offenses. Although statistically a child is more likely to be suspended if he is black, poor and in high school, the majority of students suspended are white and middle class, Edelman stressed. Few districts have or disseminate clear, written and consistent rules of conduct, the study contends. As a result, the actions which can lead to suspension are defined by individual teachers and administrators.

"Most suspensions do not serve any demonstrated valid interest of children or schools," the report contends. Instead they harm children, jeopardize their futures and push them out into the street where they get into more trouble. "Many administrators were frankly surprised when we showed them their own statistics that they suspended the vast majority of their students for nonviolent offenses," Edelman said. "The myth is so strong that school suspension affects a few patently unruly troublemakers who cause violence and vandalism." Suspensions should be ended, she said, except in those small minority of cases when harm to persons or property is immediate and serious.

In place of suspensions, CDF urges the use of educational alternatives to meet the needs of students. The report suggests several low-cost alternatives which have proved successful, such as behavior contracts, student ombudsmen, peer group counseling and in-school centers. It also says that teacher training is often valuable. Some schools have opted for work-study alternatives, career study centers or districtwide alternative schools. But the danger of proliferating programs designed for troubled children increases the temptation to place more and more children in them, the report says. On the other hand, proponents of a liberal suspension policy say it is crucial to be able to rid the classroom of disruptive pupils who divert the teacher's attention from others.

CDF plans to file about 12 suits against districts practicing arbitrary and discriminatory discipline and suspension. The nonprofit organization is involved in drawing up a discipline code in the Boston school desegregation case and already has a suit pending in Newburg, N.Y. Other suits will be filed in Virginia and Texas, Edelman said. The report, School Suspensions: Are They Helping Children?, is a follow-up to an earlier study, Children Out of School in America. (See ED USA, p.105, 1/6/75.) The new study is available from CDF (1746 Cambridge St., Cambridge, Mass. 20009; 257p; $6). CDF is also planning studies on student records, children in jails and the misclassification of children.

APPENDIX D

STUDENT SUSPENSION PRE-TEST/POST-TEST

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

April 2, 1976

TO: Principals or Designee

FROM: Marion Bell, Coordinator of Instructional Television
Clarence Noe, Director of Athletics and Driver Education

RE: Film - Staff Instruction on Student Suspension

Instructions for Test Analysis

Prior to viewing the film, provide each staff member with the following:

1. One black lead pencil only. (No 2 1/2 or softer)

2. One General Purpose Test Answer Sheet. (Parts I and II are Green, Parts III and IV are Red)

3. One Direction Sheet for Marking answers.

4. One sheet of questions entitled, "Staff Instruction on Student Suspensions."

Do not answer the questions until film has begun. There is a four minute time period in the film allotted for answering the questions on Part I of the answer sheet.

5. After the film presentation, please have the viewers use the same test placing their answers on Part III of the answer sheet. (Red Side)

6. Please forward all the material to Clarence Noe, Director of Athletics and Driver Education, County Office, via pony.

After viewing the film, please advise the staff that due process does not allow teachers to exclude or suspend students from a class. Examples: a) Student required to stand outside of classroom. b) Not allowing students to come into class. c) Suspend a student from class for a period of days.

The teacher does have the right to refer disruptive students to the office for administrative action on the misbehavior or disruptiveness of the student, as provided for in Article VIII, Items C, D, E, and F of the Master Teacher Contract.

Length of Film - 23 minutes
Post time - 4 minutes

Total time - 27 minutes

MB:CN/cb

STAFF INSTRUCTIONS ON STUDENT'S SUSPENSIONS

Directions for Marking Answers

1. Use a black lead pencil only. (No 2 1/2 or softer)
2. Make heavy black marks that fill the circle completely.
3. Erase clearly any answer you wish to change.
4. Make no stray marks on the answer sheet.
5. Do not place your name on the answer sheet.
6. Under school name list the level: Elementary, Middle or High School.
7. Pre-program answers are to be marked on Part I of the Green Side of answer sheet.
8. Post-program answers are to be marked on Part III of the Red Side of answer sheet.
9. EACH QUESTION IS INDEPENDENT AND NOT RELATED TO ANY OTHER QUESTION. ANSWER EACH QUESTION BASED ONLY ON THE INFORMATION PROVIDED IN THE STATEMENT.

Example Question

Legal	Illegal	Questionable	Unknown	
				A STUDENT IN MATH CLASS II WAS OBSERVED CHEATING ON AN EXAMINATION.
●	(B)	(C)	(D)	1. The teacher took the examination from the student.
●	(B)	(C)	(D)	2. The student admitted his guilt, so the teacher allowed him to complete the examination.
(A)	●	(C)	(D)	3. The student was sent immediately to the principal's office with instructions to tell the principal exactly what happened.
(A)	●	(C)	(D)	4. The teacher punished the student by not allowing him to compete in the County Math Contest.

STAFF INSTRUCTION ON STUDENT'S SUSPENSIONS

Using the following code, please mark the answer sheet as follows:

Legal	A
Illegal	B
Questionable	C
Unknown	D

A TEACHER SAW A STUDENT SHOVE ANOTHER STUDENT IN THE HALLWAY.

1. The teacher wrote a referral.

2. Based on the information in the teacher's referral, the principal suspended the student for three days.

3. The student's request to call home was denied by the principal.

4. The principal allowed the student to read the teacher's referral.

A STUDENT WAS CAUGHT SMOKING BEHIND A PORTABLE ON THE SCHOOL GROUNDS (UNAUTHORIZED AREA) BY THE TEACHER.

5. The student was taken immediately to the principal's office by the teacher.

6. The teacher orally explained the details to the principal.

7. The principal dismissed the student without punishment.

8. The principal did not contact the student's parents.

A FEMALE STUDENT ACCUSED A MALE STUDENT OF CALLING HER AN OBSENCE NAME WHILE THE TEACHER WAS CONDUCTING A READING CLASS.

9. The student was sent to the principal's office.

10. The teacher listened to the male student's explanation only.

11. The teacher listened to both sides of the story.

12. The teacher asked the male student to stand outside the classroom for rest of class period.

A STUDENT THREW A BOOK AT ANOTHER STUDENT DURING ART CLASS.

13. The teacher physically removed the student from the classroom.

14. The teacher wrote a referral.

15. The teacher had other students in the class to write out what occurred.

16. After reading the teacher's referral, the principal suspended the student for three days.

TWO STUDENTS WERE FIGHTING ON THE PLAYGROUND DURING PHYSICAL EDUCATION CLASS.

17. The aggressor was not allowed to call home.

18. The principal requested a written account of the incident from the teacher.

19. Both students had the right to call as many witnesses as they wanted.

20. The principal contacted the parents of both students.

APPENDIX E

SUPERINTENDENT'S AUTHORIZATION FOR TELECAST

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

OFFICE OF THE SUPERINTENDENT

February 5, 1976

TO: Mrs. Marion Bell, Coordinator
Instructional Television Center

FROM: James E. Maurer, Superintendent

RE: Film on Due Process

Would you and your staff work with Clarence Noe, Marwin Kwint, Joel Keiter, and Nelson Moore in developing the film on Due Process for Teachers? The film would be utilized county-wide.

Also, another film should be developed on Due Process for administrators, which would be utilized in the Inservice Program for prospective principals.

Thanks for your cooperation.

JEM:CN:cf

cc: Mr. Clarence Noe

APPENDIX F

SCHEDULE FOR VIEWING TELECAST

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

April 12, 1976

TO: Principals

FROM: Marion Bell, Coordinator of Instructional Television
Clarence Noe, Director of Athletics C.N.

RE: Staff Instruction on Student Suspension

Dates and times for viewing film:

	April 27 (Tuesday)	April 28 (Wednesday)	April 29 (Thursday)
8:00 a.m.	Channel 11	Channel 11	Channel 11
2:00 p.m.	Channel 13	Channel 11	Channel 13
3:15 p.m.	Channel 11	Channel 11	Channel 13

Length of Film - 23 minutes
Post time - 4 minutes

Total Time 27 minutes

MB:CN/cb

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ATHLETIC DEPARTMENT

April 20, 1976

TO: Mrs. Marion V. Bell, Coordinator
Instructional Television

FROM: Clarence Noe, Director of Athletics CN.

RE: Film - Staff Instruction on Student Suspension

Please do not release this film for viewing to all the schools until after May 12. On May 12 the film will be shown to the personnel in the administrative program.

After the May 12 viewing by the administrative personnel, statistical data will have been accumulated, thus approval for releasing film to all schools.

Thanks.

CN/cb

APPENDIX G

SUPERINTENDENT'S APPROVAL TO CONDUCT THE PRACTICUM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

RECEIVED
SUPERINTENDENT'S OFFICE
1975 SEP 29 PM 12:31

Athletic Department

September 26, 1975

THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA

APPROVED
OCT 8 1975
JAMES E. MAURER

TO: Mr. James Maurer, Superintendent of Schools

FROM: Clarence Noe, Director of Athletics C.N.

RE: Nova University Ed.D Study Group

There are ten (10) people in the Nova University Ed.D Study Group, seven (7) from Broward County School System and three (3) from Dade County.

The group is planning to do a practicum that will take at least one year to complete. The project will deal with "due process" in which volunteer involvement of teachers and administrators will be part of the practicum. At no time will names of individuals or schools be stated.

The group would like approval to proceed with the practicum as soon as possible.

Group participants are as follows:

*Ron Altman, Assistant Principal, Westview Junior High
*Judy Greene, Principal, Miami Edison
Eunice Harvey, Assistant Principal, Deerfield High
A. Q. Jones, Principal, Perry Middle
Joel Keiter, Director of Exceptional Center, Broward County
Marvin Kwint, Special Projects, McArthur High
Nelson Moore, Director of Elementary, Broward County
Clarence Noe, Director of Athletics, Broward County
Dorothy Orr, Principal, Park Ridge Elementary
*Lou Schoettle, Assistant Principal, South Miami Elementary

*Dade County Participants

CN/cb

APPENDIX H

CLASSROOM DISCIPLINE KNOWLEDGE QUESTIONAIRE

CLASSROOM DISCIPLINE KNOWLEDGE QUESTIONAIRE

Please check the method(s) by which you acquired your current knowledge of classroom discipline.

_____1. College textbooks

_____2. College lectures

_____3. Inservice workshops

_____4. Advice from other teachers

_____5. Administrator assistance/advice

_____6. Trial and error (self-experience)

_____7. Observation of other teachers

_____8. Contemporary books on newer techniques

_____9. Films/filmstrips or tape-recordings/records on class-control

____10. All of the above

____11. None of the above

____12. Other (please specify in the space below).

PLEASE DO NOT AFFIX YOUR NAME TO THIS QUESTIONAIRE.

AFTER COMPLETION, PLACE IN THE A.P. MAILBOX.

THANK YOU!!!!

APPENDIX I

CORRESPONDENCE WITH PRINCIPALS

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Athletic Department

January 16, 1976

TO: Mr. Robert Ryals, Principal
Sunset Elementary School

FROM: Clarence Noe, Director of Athletics C.N.

RE: Teacher Questionnaire

As per telephone discussion, please accept this memo as a request for your teachers to participate in a short program January 23, 1976 (Workday). The program would be approximately 30 minutes in length. The program would be as follows: a 3 or 4 minute written quiz (no names), followed by an overhead presentation, and a 3 or 4 minute post quiz (no names) would complete the program. A video tape would be used to scan the participants.

The program would need to be scheduled in the A.M. January 23 because the same program will be administered to a high school in the afternoon.

We anticipate that one point of Inservice credit will be awarded.

We appreciate the cooperation of the Sunset teachers in this project. Please let me know the time and location that is best for this presentation.

CN/cb

cc: Nelson Moore
Joel Keiter
Marwin Kwint

NOVA UNIVERSITY

NATIONAL ED.D. PROGRAM FOR EDUCATIONAL LEADERS

Miami - Ft. Lauderdale Study Group

January 26, 1976

Ronald Altman
Eunice C. Harvey
Allen Q. Jones Jr.
Joel L. Keiter
Marwin Kwint
Larry Mione
Nelson R. Moore
Clarence Noe
Dorothy J. Orr

TO: Mr. Frank Campana, Principal
Hollywood Hills High School

FROM: Clarence Noe C.N.

RE: Audio Visual Presentation

On behalf of Marwin Kwint, Joel Keiter, Nelson Moore and myself, please extend to your staff our appreciation for their cooperation and participation in the program on Friday, January 23, 1976.

Thanks a million.

CN/cb

NOVA UNIVERSITY

NATIONAL ED.D. PROGRAM FOR EDUCATIONAL LEADERS

Miami - Ft. Lauderdale Study Group

January 26, 1976

Ronald Altman
Eunice C. Harvey
Allen Q. Jones Jr.
Joel L. Keiter
Marwin Kwint
Larry Mione
Nelson R. Moore
Clarence Noe
Dorothy J. Orr

TO: Mr. Robert Ryals, Principal
Sunset Elementary School

FROM: Clarence Noe C.N.

RE: Audio Visual Presentation

On behalf of Marwin Kwint, Joel Keiter, Nelson Moore and myself, please extend to your staff our appreciation for their cooperation and participation in the program on Friday, January 23, 1976.

Thanks a million.

CN/cb

APPENDIX J

SCRIPT OF TELECAST

TELEVISION SCRIPT

STUDENT SUSPENSIONS AND DUE PROCESS

INTRODUCTION: Mr. Joel Keiter

Today's program deals with Student Suspensions and Due Process. The purpose of the program is to create an awareness on the part of instructional personnel regarding some of the implications of due process in the schools. First of all, Mr. Clarence Noe will direct a brief pre-test. Mr. Noe will be followed by Mr. Marwin Kwint, who will then give the main presentation.

EXPLANATION OF PRE-TEST: Mr. Clarence Noe

There should be three sheets of paper on each desk: sheet one, directions for marking pre-test; sheet two, twenty questions on student suspensions; and sheet three, a mark-sense answer sheet. Each of you should also have a test scoring pencil. The directions for marking the pre-test are self-explanatory. However, it is important to emphasize the following points:

Items five and six refer to the top of the green side of the answer sheet.

Do not place your name on the answer sheet.

Instead of school name, indicate the level of your school; elementary, middle or high school.

Item nine, each question is independent and not related to any other question.

Answer each question based only on the information provided in the statement in caps.

You will have four minutes in which to complete the twenty items.

You may begin.

PRE-TEST: Four minutes in length

MAIN PRESENTATION: Mr. Marwin Kwint

I am pleased to be here today with you and share this program. I feel a little bit like Paul Revere in that I have a message to bring to you. That message deals with student citizenship, behavior, and suspension in our schools. It is deeply engrossed and imbedded in the cornerstones of our democracy; namely, the Constitution and the Declaration of Independence.

It has been alleged that schools are somewhat of a contrived environment unlike the private sector of our society. It is said that we don't act the same within our schools as we do within the public sector. In the Constitution and in the Declaration of Independence it states that all men are created equal, and that they are entitled to life, liberty and the pursuit of happiness. Specifically, in the Fourteenth Amendment to the Constitution, it says "....that no State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States. Nor shall any State deprive any person of life, liberty or property without due process of law; nor deny any person within its jurisdiction the equal protection of the law."

Though the rhetoric of the Constitution is extremely simple, broad interpretation has been given to it by the Supreme Court in the implied powers. If we were to go back just a few years ago, in the Brown Decision, we would see the implication that it has had on the educational establishment today and what has occurred within our society. And yet it is only a few years ago since Governor George Wallace stood in the doors of the University of Alabama and kept students from entering that particular institution.

Something similar occurred in Des Moines, Iowa in what was referred to by the Supreme Court as the Tinker Case or Tinker vs. the Des Moines School System. In the Tinker Case a group of students, namely seven students, conspired to wear armbands on a specific day. The School Board heard of their plans and passed a resolution prohibiting a display of armbands on school grounds. Five students arrived at school with the armbands, went on to the school grounds, and then were sent home. The case, through its lengthy proceedings, reached the Supreme Court of the United States. The Supreme Court, on the basis of the First Amendment, ruled that students do have the right to self-expression as long as they don't interrupt the academic process. But more significantly, the Court held at that time that students do not shed their rights at the schoolhouse door.

On January 22, 1975, in another case, Goss vs. Lopez, the Supreme Court held that students are entitled to due process. A youngster in an Ohio school system had been expelled and suspended from school. He was first suspended and then expelled. And since he was entitled to due process, there was no way at this particular time that the Court could enforce the decision without it being a violation of laws. There were no penalties.

Thirty days later, in the Wood vs. Strickland Case, another landmark decision was handed down. In that decision, for the first time, it was determined that a person could be held liable. For the first time a teacher was defined as a school official. Therefore, a school official (a teacher, an administrator, or even a board member) could be sued if they violated due process or the civil liberties of a student. This would occur whether it happened knowingly or unknowingly. As school officials, it has become imperative that we

understand due process. That is the purpose of this meeting.

Let me define suspension at this time. Suspension is when a student is excluded from the normal educational process. Now, obviously, the normal educational process may vary from class to class. We don't expect it to be the same in a class for educable mentally handicapped students as in an advanced placement calculus class or in an art room. What would be your normal classroom operational procedures? The normal behavior of students in your classroom would be your primary concern.

At the same time, a teacher under Florida law does not have the right to suspend a student unless it is in a one-room school. The only person that can suspend a student is the principal. In suspending a student, the principal must use the tenants of due process, namely; the student must be given notice of the charges including the time and the allegation, and the date of the alleged actions. The student must be given the opportunity to tell his version of the story, and the parent must be given a copy of the proceedings, Now, there cannot be a suspension if you don't have a written referral because you would not have followed the process.

Now I realize that some of this is heavy. However, I would like to state that in writing the court decision Justice Powell said, "No one can foresee the ultimate frontier of the new thicket the court now enters. Today's ruling appears to sweep within the protective interest of education a multitude of discretionary decisions in the educational process."

The Supreme Court in its wisdom did not abolish student suspensions.

The Supreme Court, as it has done with education for years, has said that we should establish a process which will be fair to all people and then follow it. At the present time, as a result of the Wood Decision and the Goss Decision, there are cases pending for damages and legal redress of grievance. These cases claim a violation of the civil liberties of students in Arkansas and Ohio.

I'd like to give you a couple of illustrations that I feel are important. In the secondary schools there are many incidents that occur that might be considered student suspensions. For instance, if a student has been truant for many days and all of a sudden he appears in your class, you should accept him back. If you don't, it's a form of suspension. At the same time, you can't just put a student out of your classroom. Sending a student to the office in this particular type of a situation would be considered a suspension. It would be an interruption of the normal academic process, and as a result you might encounter great difficulty and be held liable.

I would suggest to you the following basic rules that you should consider in dealing with students in your classroom so that you will not be held liable: 1) Listen to your students; listen to one or both, it doesn't matter --you haven't taken an action — but listen -- it doesn't hurt to listen. No one is going to tell you how to manage your classroom in this particular area. You know to whom you can speak and to whom you can't speak. 2) Remember that a principal cannot suspend a student unless he presents the youngster with the specific allegations including the time and date of the charges. If the principal doesn't have the charges to give

to the student, then there cannot be a suspension. 3) Likewise, the student must be given the opportunity to tell his story. If the proceedings against the student do not follow the tenets of due process, the principal should dismiss the charges. Such a decision would be in the best interest of the student, teacher, administration and the School Board. That might seem difficult to understand but we've reached that point in our time when we are now bringing the democratic process right into our schools. Students can be asked, or can ask, to bring witnesses in their defense, but it is questionable as to how many witnesses they can bring. Obviously, we cannot prolong this forever. Students should always be allowed to call their parents if they wish. Now, I'd like to just open it up for any questions. I'll try to respond to them.

Yes Sir?

Question: I have a question. Why do we need deans in high schools if everything is going to be handled by the teacher in the classroom?

Answer: Alright, the teacher cannot suspend. A dean is an administrator, duly appointed by the School Board and acting in part and in the capacity of the delegation of authority and responsibility of the principal. In a high school, with an enrollment between seventeen to twenty-five hundred students, obviously the principal could not operate and manage the entire school in addition to dealing with

the routine problems. Presumably, the administrative assistant will assist him in doing these things. But in the suspension process and specifically in the Broward County suspension letter, the principal makes the final decision as to whether there will be a suspension or not. Have I answered your question?

Question: Well, it seems to me that we could just as well do with secretaries to handle this paper work.

Andwer: Ah, if it's just paper work that would be fine, but now we're dealing with a process that's educational. We're dealing with authorized personnel under Florida Law as well as School Board policy. We don't have a choice in that.

Do we have any other questions?

Question: How does this relate to the elementary grades?

Answer: O.K. -- that's good. Alright, "Johnny, if you don't behave yourself, I'm going to put you outside the room." Is that a suspension? (Answer) Yes. That's right -- that's a suspension. Is that done at times? Have you seen that done before? (Answer) Yes. Would you do it now? (Answer) No!

Yes Sir?

Question: Does the Constitutional Amendment not state citizen? Is not the reading in the Fourteenth Amendment -- citizen? Now, my question is how do you define, "citizen"?

Yes?

Answer: Alright, I am not a constitutional lawyer. But there are two conditions to citizenship. The first one is when a child is native born of citizens and the second one is when the individual has filed and been duly sworn as a citizen of the United States. If the parents are citizens of the United States then, in effect, the student would be a citizen of the United States as well. All of the students in Broward County fall under these two categories. Even someone that is visiting this country under an admititory program for those of foreign born origin is entitled to the same privileges.

Yes Sir?

Question: I work at one of the Centers in the county, and we do get a lot of disruptive students at this particular Center. I think we get these students because no one listens to these particular students. I think the keyword is to listen to students.

Answer: I agree with you. Let me suggest one other thing as you've brought up a good point here. Under the Goss Decision you can have immediate suspension if two things occur; the first thing is if the student interrupts the academic process and the second thing is if the student threatens his own welfare or the welfare of others. Now, even though you have the grounds for an immediate suspension, it is nevertheless imperative that you follow up with a hearing as well as the other steps of due process.

Yes?

Question: Would all of the steps of due process have to be followed if the student was given an indoor suspension?

Answer: Yes.

DIRECTIONS FOR POST-TEST: Mr. Marwin Kwint

At the conclusion of this telecast, please turn to Part III of your answer sheet, the red side. Would you do that now, please.

Using the same questions, please mark your answer sheets without reviewing the pre-test answers. Four minutes will be allowed to answer the twenty questions. Ready. Begin.

APPENDIX K

SUPERINTENDENT'S APPROVAL FOR TRANSMISSION

OF STUDENT SUSPENSION TELECAST

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

OFFICE OF THE SUPERINTENDENT

April 19, 1976

TO: Mrs. Marion V. Bell, Coordinator
Instructional Television

FROM: James E. Maurer, Superintendent of Schools

RE: Film - Staff Instruction on Student Suspension

Please release this film for viewing by the instructional personnel of the various schools.

Mr. Clarence Noe will assist in the implementation of the testing procedures.

Thank you kindly for your cooperation.

JEM:CN:cb

cc: Dr. McComb
Mr. Noe

APPENDIX L

ORIENTATION PROGRAM FOR INTERN TEACHERS

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

James E. Maurer
Superintendent of Schools

Andrew Mavrides, Chairman
Kathleen C. Wright, Vice Chairman
Henry W. Harbinson, Sr.
Janet L. MacGregor
H. Don Moore
William S. Tillett
John Tripp

June 21, 1976

TO: Mr. Joel L. Keiter, Director
Exceptional Student Education

FROM: Katherine Labelle, Director
Inservice Education and Intern Program

RE: The Video Tape - "Student Suspensions"

I would like to take this opportunity to support your effort in regards to pre-service instruction of student teachers on the subject of Student Suspensions.

It was a pleasure to hear of your experience with the Exceptional Student Education student teachers on May 3, 1976. Because of the increased interest in the subject of Due Process and Student Suspension, this office views a similar experience by all student teachers working in Broward County School System to be imperative.

It is anticipated that this office will be in a position to assist you in the implementation of this procedure in the future.

KLB/vsd

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APPENDIX M

NOTICES OF SUSPENSION S-1 AND S-2

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

NOTICE OF SUSPENSION OF UP TO FIVE DAYS

To the Parent or Guardian of:

_____

Date _____
Grade _____
Date of Birth _____
Race _____ Sex _____

Dear Parent or Guardian:

As you know, schools must have regulations to protect the health and safety of all students as well as to encourage learning. We regretfully report that _____ has not followed these regulations, thus making it necessary to suspend _____ for _____ days due to the following reasons:

_____ may return to school on _____.

Please be advised that the Broward County School System is dedicated to helping every student have a successful school career. We strive to work closely with each student to determine and provide a program best suited to the child's needs. We recognize that suspensions do not contribute to this goal. Therefore, we are hopeful that you will discuss the seriousness of this action with _____. We would also welcome an opportunity to review the reasons for this suspension with you and _____ as well as discuss _____ program of education. Please call _____, telephone number _____, for an appointment.

I appreciate your understanding in this matter, and look forward to working with you in the best interests of _____.

Sincerely yours,

_____

Name _____

Title _____

School _____

White Copy – Student
Yellow Copy – Parent
Pink Copy – Area Superintendent
Gold Copy – School

110

97

W19 426-S-1

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

NOTICE OF SUSPENSION OF UP TO TEN DAYS

To the Parent or Guardian of:

_____

Date _____
Grade _____
Date of Birth _____
Race _____ Sex _____

Dear Parent or Guardian:

As you know, schools must have regulations to protect the health and safety of all students as well as to encourage learning. We regretfully report that _____ has not followed these regulations, thus it is necessary to suspend _____ for a period of time beyond five (5) days for the following reasons:

The seriousness of this matter warrants suspension of up to ten (10) days. However, before taking this action I would appreciate an opportunity to discuss the reasons for the suspension with you. Should you desire a hearing prior to this suspension please come to the principal's office on _____ at _____ a.m./p.m. Address: _____
If this date and/or time is not satisfactory please call _____ to arrange a more appropriate appointment. You and _____ may be accompanied by anyone of your choice who may assist in the proceedings.

Should you not desire a hearing, _____ may return to school on _____.

Sincerely yours,

_____

Name _____

Title _____

School _____

White Copy – Student
Yellow Copy – Parent
Pink Copy – Area Superintendent
Goldenrod Copy – School

FORM S-2

APPENDIX N

REVISED NOTICES OF SUSPENSION S-1 AND S-2

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

*NOTICE OF SUSPENSION OF UP TO TEN DAYS WITH PRIOR HEARING

To the Parent or Guardian of:

_____ Date _____
Grade _____
Date of Birth _____
Race _____ Sex _____

Dear Parent or Guardian:

We regret to inform you that in accordance with Board Policy 5006 (Name) _____ has been suspended for a period of _____ days. The reason for the suspension is as follows: (Detailed information including date and time of alleged action)

Pursuant to Policy 5006 (Name) _____ was notified concerning the alleged violation(s) and a hearing was held during which time he/she was advised of the alleged violation(s) and given an opportunity to present his/her version of the incident. At the conclusion of the hearing it was decided that (Name) _____ was in violation of the Board Policy and that a _____ day suspension was justified. As this is a serious matter and I know that it is our joint concern to help (Name) _____ in his/her academic endeavors, please feel free to call and make an appointment to discuss this matter with me. (Phone Number) _____.

(Name) _____ will be expected to return to school on (Date) _____.

Sincerely yours,

_____
Name _____
Title _____
School _____

White copy – Student
Yellow copy – Parent
Pink copy – Area Superintendent
Gold copy – School

*Prior to sending a student home from school, the principal shall notify the student of the alleged violation(s) and conduct a hearing pursuant to Policy No. 5006.

FORM S-1 (8/75)

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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

NOTICE OF SUSPENSION OF UP TO TEN DAYS WITHOUT PRIOR HEARING

To the Parent or Guardian of:

_____ Date _____
Grade _____
Date of Birth _____
Race _____ Sex _____

Dear Parent or Guardian:

We regret to inform you that on (month) _____ (day) _____ (year) _____,
(name) _____ was suspended from school for violating
School Board Policy No. _____ by allegedly doing the following:

Because of the nature of the alleged violation(s) it was impossible to hold a hearing prior to the suspension.

This letter is to advise you concerning the nature of the allegation(s) and to inform you that a hearing concerning the allegation(s) has been set for (time) _____, (date) _____,
at (address) _____, to advise (name) _____
concerning the nature of the allegation(s) as well as to permit him/her to present his/her version of the incident. We trust that you will be able to attend this hearing with (name) _____
in order that we may work together in his/her best interests. If the above scheduled hearing date and/or time is not convenient for you please contact this office so that it may be rescheduled. (phone no.) _____

Should (name) _____ fail to appear for this hearing we have no alternative but to extend the period of suspension to _____ days in which case (name) _____
will be expected to return to school on (day & date) _____.

Sincerely yours,

_____
Name _____
Title _____
School _____

White copy – Student
Yellow copy – Parent
Pink copy – Area Superintendent
Gold copy – School

FORM S-2 (8/75)

114

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APPENDIX O

REQUESTS FOR HANDBOOK ENTITLED STUDENT SUSPENSIONS

Joel Keiter
Marvin Kwint
Nelson R. Moore
Clarence Noe

Gentlemen;

We have received requests for our recent publications, as a result of our having won three national awards. I am including the "Suspensions" booklet in the packet we are sending out. We have sent your book to the following:

University of Miami Library
Board of Education, Livingston, N.J.
Glassboro State College, Glassboro, N.J.
Brighton Area Schools, Brighton, Michigan
Lindbergh School District, St. Louis, Mo.
Dumont School District, Dumont, N.J.
Benton Harbor Area Schools, Benton Harbor, Michigan
Southwestern Wisconsin Schools, Hazel Green, Wisc.

Respectfully submitted,

Bill Williams. 10.11.76